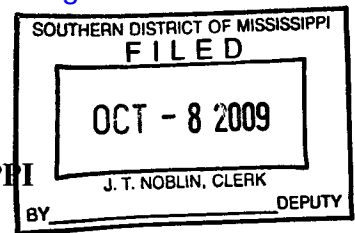


**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**



**ANTHONY SHEARER, TAMMY SHEARER,  
VOLUME MEAT VEGETABLES & PRODUCE,  
OUTLAWED HAWG BBQ**

**PLAINTIFFS**

**VS.**

**CAUSE NO.:** 3:09cv604 HTW-LRA

**MS STATE DEPARTMENT OF PUBLIC SAFETY/  
MISSISSIPPI HIGHWAY PATROL, CAPTAIN  
JEFFREY C. MCNEECE, individually and officially,  
MICHAEL BERTHAY, individually and officially,  
BILL ELLIS, individually and officially, CHRIS  
DICKINSON, individually and officially, SHERIFF  
DEPARTMENT OF ITAWAMBA COUNTY,  
ITAWAMBA COUNTY BOARD OF SUPERVISORS**

**DEFENDANTS**

**NOTICE OF REMOVAL**

**TO: ANTHONY SHEARER  
7443 HWY 178 E.  
FULTON, MISSISSIPPI 38843**

**TAMMY SHEARER  
7443 HWY 178 E.  
FULTON, MISSISSIPPI 38843**

**OUTLAWED HAWG AND VEGETABLES MEAT  
OUTLAWED HAWG BBQ  
C/O TONY SHEARER  
7443 HWY 178 E.  
FULTON, MISSISSIPPI 38843**

**CAPTAIN JEFFREY C. MCNEECE  
C/O MS DEPT. PUBLIC SAFETY  
1900 E. WOODROW WILSON DRIVE  
JACKSON, MISSISSIPPI 39216**

**MAJOR BILL ELLIS  
C/O MS DEPT. PUBLIC SAFETY  
1900 E. WOODROW WILSON DRIVE  
JACKSON, MISSISSIPPI 39216**

**SHERIFF CHRIS DICKINSON  
C/O ITAWAMBA COUNTY SHERIFF DEPARTMENT  
201 S. CUMMINGS ST.  
FULTON, MISSISSIPPI 38843**

**SHERIFF CHRIS DICKINSON, INDIVIDUALLY  
C/O ITAWAMBA COUNTY SHERIFF DEPARTMENT  
201 S. CUMMINGS ST.  
FULTON, MISSISSIPPI 38843**

**ITAWAMBA COUNTY BOARD OF SUPERVISORS  
C/O ITAWAMBA COUNTY CHANCERY CLERK  
P.O. BOX 776  
FULTON, MISSISSIPPI 38843**

**ERMEA J. RUSSELL, ESQ.  
THE RUSSELL LAW FIRM, PLLC  
P.O. BOX 24561  
623 COURT ST.  
JACKSON, MISSISSIPPI 39225**

**BARBARA DUNN  
HINDS COUNTY CIRCUIT CLERK  
P.O. BOX 327  
JACKSON, MISSISSIPPI 39205**

PLEASE TAKE NOTICE THAT Mississippi Department of Public Safety/Mississippi Highway Patrol and Michael Berthay, individually and officially defendants in the above styled and numbered cause, have filed this Notice of Removal, as required by the rules of court, for the removal of that certain cause entitled "Anthony Shearer, Tammy Shearer, Volume Meat Vegetables & Produce, Outlawed Hawg BBQ vs. MS State Department of Public Safety/Mississippi Highway Patrol, Captain Jeffrey C. McNeece, individually and officially,

Michael Berthay, individually and officially, Bill Ellis, individually and officially, Chris Dickinson, individually and officially, Sheriff Department of Itawamba County, Itawamba County Board of Supervisors” bearing Civil Action No. 251-09-752 CIV on the docket of the Circuit Court of Hinds County, Mississippi, from that Court to the United States District Court for the Southern District of Mississippi, Jackson Division.

You will, pursuant to said removal, proceed no further with this matter in the Circuit Court of Hinds County, Mississippi. Your attention is specifically directed to Section 1441 et seq., Title 28, United States Code, as amended.

Mississippi Department of Public Safety/Mississippi Highway Patrol and Michael Berthay, individually and officially defendants, appearing specially and for the sole and only purpose of effecting removal to this Court, defendants reserving and not waiving any and all immunities and defenses, state the following as grounds for removal:

**I.**

Mississippi Department of Public Safety/Mississippi Highway Patrol and Michael Berthay, individually and officially defendants, are defendants in the previously identified civil action now pending in the Circuit Court of Hinds County, Mississippi. Said suit is an action by plaintiff to recover compensatory damages, Attorney’s fees, costs and expenses and punitive damages, which damages are in excess of the minimum jurisdictional limit.

**II.**

As a basis for their claim, plaintiffs rely on 42 U.S.C. Section 1981, 42 U.S.C. Section

1983 and 42 U.S.C. Section 1985 and the Fourteenth Amendment to the United States Constitution.

### III.

The controversy in said suit, therefore, involves a claim or right arising under the Constitution, treaties or laws of the United States, and is removable without regard to the citizenship or residence of the parties, pursuant to Title 28, United States Code, Sections 1331 and 1441, as amended.

### IV.

The matter in controversy between plaintiffs and defendants, at the time of the commencement of said action and at the present time, also exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000), exclusive of costs and expenses.

### V.

The sum demanded is alleged to be due plaintiff as the result of certain events described in the Complaint. Those events are alleged to have resulted in certain loss or damage to plaintiff which plaintiff claims to be recoverable from defendants as above mentioned, and, as more particularly set forth in the Complaint. Those events are precipitated because of the above mentioned alleged violation of the Constitution of the United States.

VI.

For the foregoing reasons, this Court has jurisdiction of the subject matter pursuant to Title 28, United States Code, Section 1331, as amended, and defendants have properly removed this civil action to this Court from the Circuit Court of Hinds County, Mississippi, pursuant to 28 U.S.C. Section 1441 and 1446.

VII.

Attached hereto and made a part hereof by reference is exhibit "A" described as copies of all process, pleadings and orders served upon defendants and/or filed in the subject action.

Respectfully submitted,

MISSISSIPPI DEPARTMENT OF PUBLIC  
SAFETY/MISSISSIPPI HIGHWAY PATROL AND  
MICHAEL BERTHAY, individually and officially  
defendants

By:

  
\_\_\_\_\_  
JAMES T. METZ, MSB# 2905  
Special Counsel

PURDIE & METZ, PLLC  
402 Legacy Park, Suite B/39157  
Post Office Box 2659  
Ridgeland, Mississippi 39158  
Telephone: 601-957-1596  
Facsimile: 601-957-2449

**CERTIFICATE OF SERVICE**

I, James T. Metz, do hereby certify that I have this day mailed, by United States mail, postage pre-paid, a true and correct copy of the above and foregoing Notice of Removal to:

Ermea J. Russell, Esquire  
THE RUSSELL LAW FIRM  
Post Office Box 24561  
Jackson, Mississippi 39225

*Attorney for the Plaintiffs*

Captain Jeffrey C. McNeece  
C/O MS Dept Public Safety  
1900 E. Woodrow Wilson Drive  
Jackson, Mississippi 39216

Major Bill Ellis  
C/O MS Dept Public Safety  
1900 E. Woodrow Wilson Drive  
Jackson, Mississippi 39216

Sheriff Chris Dickinson  
C/O Itawamba County Sheriff Dept.  
201 S. Cummings Street  
Fulton, Mississippi 38843

Itawamba County Board of Supervisors  
C/O Itawamba County Chancery Clerk  
Post Office Box 776  
Fulton, Mississippi 38843

Barbara Dunn  
Hinds County Circuit Clerk  
Post Office Box 327  
Jackson, Mississippi 39205

This the 8<sup>th</sup> day of October, 2009.

  
James T. Metz